

ESTTA Tracking number: **ESTTA678408**

Filing date: **06/16/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Guru Beverage Co.
Granted to Date of previous extension	06/17/2015
Address	110 Green Street Brooklyn, NY 11222 UNITED STATES

Attorney information	Mark Harrison Venable LLP P.O. Box 34385 Washington, DC 20043-9998 UNITED STATES mbharris- on@venable.com,trademarkdocket@venable.com,lmfuller@venable.com Phone:202-344-4019
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Applicant Information

Application No	79143472	Publication date	02/17/2015
Opposition Filing Date	06/16/2015	Opposition Period Ends	06/17/2015
International Registration No.	1194257	International Registration Date	07/09/2013
Applicant	NAKINAVA LIMITED Intershor Chambers, VIRGIN ISLANDS, BRITISH		

Goods/Services Affected by Opposition

Class 032. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Mineral and aerated waters and other non-alcoholic beverages, namely, soft drinks; fruit beverages and fruit juices; aperitifs, non-alcoholic; water beverages; kvass being non-alcoholic beverages; cocktails, non-alcoholic; lemonades; peanut milk being non-alcoholic beverages; non-alcoholic beverages, namely, soft drinks; isotonic beverages; non-alcoholic honey-based beverages; whey beverages; fruit beverages; milk of almonds for beverage; fruit nectars, non-alcoholic; syrups for making beverages, namely, orgeat; powders for non-alcoholic effervescing beverages; sarsaparilla being a non-alcoholic beverage; syrups for making lemonade; tomato juice beverages; apple juice beverages; vegetable juice beverages; fruit juices; preparations for making aerated water; preparations for making mineral water; preparations for making beverages, namely, pastilles for effervescing beverages; sherbet beverages; non-alcoholic fruit extracts used in the preparation of beverages; non-alcoholic beverages flavored with tea; fruit-based soft drinks flavored with tea; syrups for making beverages flavored with tea

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2775940	Application Date	02/11/1999
Registration Date	10/21/2003	Foreign Priority Date	NONE
Word Mark	GURU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1999/08/00 First Use In Commerce: 1999/09/30 Sports drinks, energy drinks and soft drinks		

U.S. Registration No.	2789042	Application Date	02/11/1999
Registration Date	12/02/2003	Foreign Priority Date	NONE
Word Mark	GURU ENERGY DRINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1999/08/00 First Use In Commerce: 1999/09/30 Sports drinks, energy drinks and soft drinks		

Attachments	Guru Beverage Co v Nakinava Limited FITO GURO Notice of Opposition with Exhibits.pdf(555544 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mark Harrison/
Name	Mark Harrison
Date	06/16/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GURU BEVERAGE CO.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
NAKINAVA LIMITED)	
)	Serial No. 79/143472
)	FITO GURU & design
Applicant.)	
<hr/>		
Attorney's Reference: 115412-387342		

NOTICE OF OPPOSITION



In the matter of the application for registration of the trademark of NAKINAVA LIMITED shown in Application Serial No. 79/143472 filed July 9, 2013, and published for opposition in the *Official Gazette* of February 17, 2015.


Guru Beverage Co., a Delaware corporation with an address at 110 Green Street, No. B -510 Brooklyn, New York 11222 believes that it will be damaged by registration of the mark shown in said Application Serial No. 79/143472, and hereby oppose the same.

As grounds for opposition it is alleged that:

1. Opposer, itself and through its related companies and predecessors in interest, is now and, for many years has been engaged in the business of manufacturing and marketing energy drinks and sports drinks under the trademark GURU and trademarks incorporating the term GURU.
2. Opposer, itself and through its related companies and predecessors in interest, has used the trademark GURU to identify its energy drinks and sports drinks, in commerce, since at least as early as September 1999, and continues to use that trademark in commerce.

3. Opposer is the owner of U.S. Trademark Registration No. 2,775,940 issued October 21, 2003 for the mark GURU covering “sports drinks, energy drinks and soft drinks.” The application that matured into Registration No. 2,775,940 was filed February 11, 1999. A copy is attached as Exhibit “A” per 37 CFR §2.122(d)(1).
4. Opposer is the owner of U.S. Trademark Registration No. 2,789,042 issued December 2, 2003 for the mark GURU ENERGY DRINK covering “sports drinks, energy drinks and soft drinks.” The application that matured into Registration No. 2,789,042 was filed February 11, 1999. A copy is attached as Exhibit “B” per 37 CFR §2.122(d)(1).



5. Applicant is seeking registration of the mark  for “Mineral and aerated waters and other non-alcoholic beverages, namely, soft drinks; fruit beverages and fruit juices; aperitifs, non-alcoholic; water beverages; kvass being non-alcoholic beverages; cocktails, non-alcoholic; lemonades; peanut milk being non-alcoholic beverages; non-alcoholic beverages, namely, soft drinks; isotonic beverages; non-alcoholic honey-based beverages; whey beverages; fruit beverages; milk of almonds for beverage; fruit nectars, non-alcoholic; syrups for making beverages, namely, orgeat; powders for non-alcoholic effervescing beverages; sarsaparilla being a non-alcoholic beverage; syrups for making lemonade; tomato juice beverages; apple juice beverages; vegetable juice beverages; fruit juices; preparations for making aerated water; preparations for making mineral water; preparations for making beverages, namely, pastilles for effervescing beverages; sherbet beverages; non-alcoholic fruit extracts used in the preparation of beverages; non-alcoholic beverages flavored with tea; fruit-based soft drinks flavored with tea; syrups for making beverages flavored with tea” in Class 32.

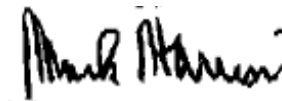
6. Applicant has a constructive date of first use for its mark in the U.S. of July 9, 2013.
7. Applicant did not use its trademark, for the goods listed in Class 32 in its application, in commerce in the United States prior to July 9, 2013.
8. Applicant did not use its trademark, for the goods listed in Class 32 in its application, in commerce in the United States prior to 2003.
9. Applicant did not use its trademark, for the goods listed in Class 32 in its application, in commerce in the United States prior to 1999.
10. The term GURU in Applicant's mark is identical to the term GURU in Opposer's marks.
11. Opposer's mark GURU has been in use in commerce in the U.S. since prior to any date of first use that can be alleged by Applicant for its mark for goods in Class 32.
12. The applicant's goods and the opposer's goods are substantially related.
13. The Applicant's mark is so similar to Opposer's trademarks incorporating the term GURU such that Applicant's use and registration of its trademark to identify its goods in Class 32 is likely to cause confusion and lead to deception as to the source of origin and/or the sponsorship of Applicant's goods and/or Opposer's goods.
14. If the Applicant were permitted to use and register its mark for its goods as specified in its application, confusion among consumers resulting in damage and injury to Opposer would be caused by virtue of the similarity between applicant's trademark and Opposer's trademarks, and the related nature of the goods covered in Class 32 by those trademarks. Any defect, objection or fault found with Applicant's goods would reflect upon, and seriously injure the reputation and value that Opposer has established under its trademark.

WHEREFORE, Opposer prays that said Application Serial No. 79/143472 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of the Opposer.

This Notice of Opposition is submitted through ESTTA together with the statutory filing fee of \$300.00 (Class 32). Should any additional fee be required, please charge the same to our Account No. 22-0261, and notify us accordingly.

Opposer appoints Mark B. Harrison, Rebecca Liebowitz, Scott Oslick and Jeremy Klass along with the law firm of Venable LLP, P.O. Box 34385, Washington, D.C. 20043-9998 to transact all business on its behalf in connection with this Opposition.

Respectfully submitted,



Date: June 16, 2015

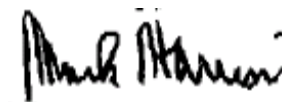
By: _____

Attorneys for Opposer
Mark B. Harrison
Rebecca Liebowitz
Scott Oslick
Jeremy Klass
VENABLE
P.O. Box 34385
Washington, D.C. 20043-9998
Telephone: 202/344-4800
Facsimile: 202/344-8300

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served by U.S. Mail, first class, postage prepaid, on this 16th day of June, 2015 on the Applicant's counsel/domestic representative at the address listed in the current U.S. Trademark Office Records as follows:

Alexander Lazouski
Lazouski IP LLC
14726 Bowfin Ter.,
Suite 1
Lakewood Ranch, FLORIDA 34202



Mark Harrison

EXHIBIT “A”



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Typed Drawing

Word Mark	GURU
Goods and Services	IC 032. US 045 046 048. G & S: Sports drinks, energy drinks and soft drinks. FIRST USE: 19990800. FIRST USE IN COMMERCE: 19990930
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75638686
Filing Date	February 11, 1999
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	October 17, 2000
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	2775940
Registration Date	October 21, 2003
Owner	(REGISTRANT) G.I. Energy Drinks Corporation CORPORATION CANADA 2004, St-Laurent #411 Montreal H2X 2T2 CANADA (LAST LISTED OWNER) GURU BEVERAGE CO. CORPORATION DELAWARE 110 Green Street #B-510 Brooklyn NEW YORK 11222
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	KAREN I LEVIN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20131025.

Renewal 1ST RENEWAL 20131025

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Mark:		GURU		No Image exists for this case.	
US Serial Number:		75638686	Application Filing Date:		Feb. 11, 19
US Registration Number:		2775940	Registration Date:		Oct. 21, 20
Register:		Principal			
Mark Type:		Trademark			
Status:		The registration has been renewed.			
Status Date:		Oct. 25, 2013			
Publication Date:		Oct. 17, 2000	Notice of Allowance Date:		Jan. 09, 20
▲ Mark Information ▼ Expand All					
■ Goods and Services					
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *...* identify additional (new) wording in the goods/services. 					
For:		Sports drinks, energy drinks and soft drinks			
International Class(es):		032 - Primary Class	U.S Class(es):		045, 046, 0
Class Status:		ACTIVE			
Basis:		1(a)			
First Use:		Aug. 1999	Use in Commerce:		Sep. 30, 19
▲ Basis Information (Case Level)					
■ Current Owner(s) Information					
Owner Name:		GURU BEVERAGE CO.			
Owner Address:		110 Green Street #B-510 Brooklyn, NEW YORK 11222 UNITED STATES			
Legal Entity Type:		CORPORATION			DELAWARE

State or Country Where
Organized:

▲ **Attorney/Correspondence Information**

▲ **Prosecution History**

■ **Maintenance Filings or Post Registration Information**

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Oct. 21, 2013

Change in Registration: Yes

**Amendment to a
Registration/Renewal
Certificate:** In the statement, Column 2, line 1 " first use 1-1-1999; in commerce 2-9-1999" should be delete
commerce September 30, 1999 should be inserted.

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EXHIBIT “B”



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Typed Drawing

Word Mark GURU ENERGY DRINK

Goods and Services IC 032. US 045 046 048. G & S: Sports drinks, energy drinks and soft drinks. FIRST USE: 19990800. FIRST USE IN COMMERCE: 19990930

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75638687

Filing Date February 11, 1999

Current Basis 1A

Original Filing Basis 1B

Published for Opposition April 18, 2000

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 2789042

Registration Date December 2, 2003

Owner (REGISTRANT) G.I. Energy Drinks Corporation CORPORATION CANADA 2004, St-Laurent #411 Montreal H2X 2T2 CANADA

(LAST LISTED OWNER) **GURU BEVERAGE** CO. CORPORATION DELAWARE 511 Sixth Avenue, #163 New York NEW YORK 10011

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record KAREN I LEVIN

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY DRINK" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20131212.
Renewal 1ST RENEWAL 20131212
Live/Dead Indicator LIVE

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NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

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Mark:	GURU ENERGY DRINK			No Image exists for this case.	
US Serial Number:	75638687	Application Filing Date:	Feb. 11, 19		
US Registration Number:	2789042	Registration Date:	Dec. 02, 20		
Register:	Principal				
Mark Type:	Trademark				
Status:	The registration has been renewed.				
Status Date:	Dec. 12, 2013				
Publication Date:	Apr. 18, 2000	Notice of Allowance Date:	Jul. 11, 20		
▲ Mark Information ▼ Expand All					
■ Goods and Services					
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *...* identify additional (new) wording in the goods/services. 					
For:	Sports drinks, energy drinks and soft drinks				
International Class(es):	032 - Primary Class	U.S Class(es):	045, 046, 0		
Class Status:	ACTIVE				
Basis:	1(a)				
First Use:	Aug. 1999	Use in Commerce:	Sep. 30, 19		
▲ Basis Information (Case Level)					
■ Current Owner(s) Information					
Owner Name:	GURU BEVERAGE CO.				
Owner Address:	511 Sixth Avenue, #163 New York, NEW YORK 10011 UNITED STATES				
Legal Entity Type:	CORPORATION	State or Country Where Organized:	DELAWARE		

[▲ Attorney/Correspondence Information](#)[▲ Prosecution History](#)[■ Maintenance Filings or Post Registration Information](#)

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Dec. 02, 2013

Change in Registration: Yes

**Amendment to a
Registration/Renewal
Certificate:** In the statement, Column 1, line 7, " first use 1-1-1999; In Commerce 2-9-1999" should be deleted
September 30, 1999 should be inserted.

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